

**Nos. 2016-2290, -2343**

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**IN THE**  
***United States Court of Appeals***  
**FOR THE FEDERAL CIRCUIT**

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ZOLL Medical Corp.,  
*Plaintiff-Appellant,*  
  
v.  
  
Respironics, Inc.,  
*Defendant-Cross-Appellant.*

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE IN NO.  
1:12-CV-01778-LPS, CHIEF JUDGE LEONARD P. STARK

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**PLAINTIFF-APPELLANT'S UNOPPOSED MOTION FOR A THIRTY  
(30) DAY EXTENSION OF TIME TO FILE ITS INITIAL BRIEF**

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Gavin Snyder

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*Attorneys for Plaintiff-Appellant*

October 26, 2016

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**ZOLL’S UNOPPOSED MOTION FOR A THIRTY (30) DAY  
EXTENSION OF TIME TO FILE ITS INITIAL BRIEF**

Pursuant to Fed. Cir. R. 26(b), Plaintiff-Appellant ZOLL Medical Corp. (“ZOLL”) respectfully moves for a thirty (30) day extension to file its initial brief in this case.

Pursuant to the Court’s docket order 18, and pursuant to a previous unopposed motion for extension of time, ZOLL’s initial brief is currently due on November 2, 2016. If this motion is granted, ZOLL’s initial brief would be due on December 2, 2016.

On July 13, 2016, ZOLL sent a letter to Defendant-Cross-Appellant Respironics, Inc. (“Respironics”) regarding an extension of time to file its initial brief. On July 15, 2016, Respironics confirmed that it would not oppose ZOLL’s request for a sixty (60) day extension. On July 20, 2016, ZOLL filed an unopposed motion for a sixty (60) day extension of time to file its initial brief. On July 21, 2016, the Clerk granted the motion and ordered that ZOLL’s initial brief be due November 2, 2016, sixty (60) days after the normal deadline. On October 26, 2016, ZOLL sent an email to Respironics regarding a further extension of time to file its initial brief. On the same day, Respironics confirmed that it would not oppose ZOLL’s request for a further thirty (30) day extension.

In addition to the fact that the parties have conferred and agreed to the revised schedule, there is good cause shown for an extension, as required by Fed. Cir. R. 26(b)(1) and (5). As described in the accompanying Declaration of David I. Gindler, extraordinary circumstances exist that justify an extension of time. The parties are seeking to implement a resolution of this case. A further thirty (30) day extension is needed in order for the parties to determine if the resolution can be achieved.

This motion is not made for the purposes of delay, but in good faith in light of developments in this case. To date, ZOLL has requested one previous sixty (60) day extension in this appeal.

For the foregoing reasons, ZOLL respectfully requests that the Court grant ZOLL's motion for a thirty (30) day extension and order ZOLL's initial brief due on December 2, 2016.

Respectfully submitted,

Dated: October 26, 2016

/s/ Gavin Snyder

Gavin Snyder

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
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1:12-CV-01778-LPS, CHIEF JUDGE LEONARD P. STARK

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**DECLARATION OF DAVID I. GINDLER IN SUPPORT OF  
PLAINTIFF-APPELLANT'S UNOPPOSED MOTION FOR A THIRTY  
(30) DAY EXTENSION OF TIME TO FILE ITS INITIAL BRIEF**

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*Attorneys for Plaintiff-Appellant*

October 26, 2016

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**DECLARATION OF DAVID I. GINDLER**

I, David I. Gindler, declare as follows:

1. I am a partner in the law firm of Irell & Manella LLP, and counsel for Plaintiff-Appellant ZOLL Medical Corp. ("ZOLL") in the above-captioned case. I have significant responsibility for this appeal. I provide this declaration upon personal knowledge and, if called upon as a witness, would testify competently as to the matters recited herein.

2. I submit this declaration in support of ZOLL's motion for a thirty (30) day extension for ZOLL to file its initial brief in this case. To date, ZOLL has requested one previous sixty (60) day extension in this appeal.

3. On July 13, 2016, ZOLL sent a letter to Defendant-Cross-Appellant Respironics, Inc. ("Respironics") regarding an extension of time to file its initial brief. On July 15, 2016, Respironics confirmed that it would not oppose ZOLL's request for a sixty (60) day extension. On July 20, 2016, ZOLL filed an unopposed motion for a sixty (60) day extension of time to file its initial brief. On July 21, 2016, the Clerk granted the motion and ordered that ZOLL's initial brief be due November 2, 2016, sixty (60) days after the normal deadline.

4. On October 26, 2016, ZOLL sent an email to Respironics regarding a further extension of time to file its initial brief. On the same day,

Respironics confirmed that it would not oppose ZOLL's request for a further thirty (30) day extension.

5. Extraordinary circumstances exist that demonstrate good cause for an extension of time. The parties are seeking to implement a resolution of this case. A further thirty (30) day extension is needed in order for the parties to determine if the resolution can be achieved.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Respectfully submitted,

Dated: October 26, 2016

/s/ David I. Gindler

David I. Gindler

*Attorney for Plaintiff-Appellant  
ZOLL Medical Corporation*

## UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

ZOLL Medical Corp.

v.

Respironics, Inc.

Case No. 2016-2290, -2343

## CERTIFICATE OF INTEREST

Counsel for the:

☐ (petitioner) ☒ (appellant) ☐ (respondent) ☐ (appellee) ☐ (amicus) ☐ (name of party)

ZOLL Medical Corp.

certifies the following (use "None" if applicable; use extra sheets if necessary):

1. Full Name of Party Represented by me	2. Name of Real Party in interest (Please only include any real party in interest NOT identified in Question 3) represented by me is:	3. Parent corporations and publicly held companies that own 10 % or more of stock in the party
ZOLL Medical Corporation	Zoll Medical Corporation	Asahi Kasei Kabushiki Kaisha Asahi Kasei US Holdings, Inc.

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court (**and who have not or will not enter an appearance in this case**) are:

Fish & Richardson P.C.: Andrew R. Kopsidas, Kurt L. Glitzenstein, Santosh Victor Coutinho, Steven A Bowers  
Morris, Nichols, Arsht & Tunnell LLP: Jack B. Blumenfeld  
Irell & Manella LLP: Morgan Chu, Michael J. Lanosa, Lindsay A. Kelly

October 26, 2016

Date

/s/ Gavin Snyder

Signature of counsel

Please Note: All questions must be answered

Gavin Snyder

Printed name of counsel

cc: Counsel of Record

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# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

## CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on October 26, 2016  
by:

- ☐ U.S. Mail  
☐ Fax  
☐ Hand  
☒ Electronic Means (by E-mail or CM/ECF)

Gavin Snyder

/s/ Gavin Snyder

Name of Counsel

Signature of Counsel

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NOTE: For attorneys filing documents electronically, the name of the filer under whose log-in and password a document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. Graphic and other electronic signatures are discouraged.

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